

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
FRANKELY ANTONIO GARCIA-VASQUEZ	:	NO. 17-315

M E M O R A N D U M

GENE E.K. PRATTER, J.

DECEMBER 5, 2017

INTRODUCTION

Frankely Garcia-Vasquez’s Motion to Suppress is defeated by a combination of law enforcement coincidences with adverse consequences to Mr. Garcia-Vasquez, a state trooper’s sharp memory, and the trooper’s credible description during a suppression hearing of events during a traffic stop by the trooper of Mr. Garcia-Vasquez that is supported by a dash-cam video of their interaction. The operative facts and familiar principles of law are summarized below.

BACKGROUND

Traveling at a rate above the speed limit on the Pennsylvania Turnpike on October 24, 2016, in a 2009 Ford Escape SUV, Mr. Garcia-Vasquez was observed by veteran Pennsylvania State Trooper Justin Hope. Trooper Hope, a member of the S.H.I.E.L.D. Unit. (S.H.I.E.L.D. stands for Safer Highways Initiative through Effective Law Enforcement and Detection), was in an unmarked police car. In keeping with his customary procedures, while following the Escape SUV Trooper Hope ran the license plate through a vehicle registration data base. The responsive

information caused Trooper Hope to recognize that the Escape was registered to the same residential address on Bodine Street in Philadelphia as another SUV that had been stopped a month earlier on the Turnpike by one of Trooper Hope's colleagues, Trooper Isoldi. In the earlier incident, Trooper Isoldi had described that SUV (which, like the Ford Escape involved here, was heading east on the Turnpike when stopped by the state police) as having a false compartment in which just under \$300,000 was found, along with a large quantity of heroin. With this recollection and some newly acquired data, Trooper Hope proceeded to pull the Ford Escape over to the side of the highway.

In response to Trooper Hope's inquiry, the driver, who was alone in the car, identified himself as Jose Benitez-Ramos. In the course of producing the customary documentation (license, registration, insurance card), the driver told Trooper Hope that he had purchased the SUV about three days earlier from a friend in Philadelphia. He said he was driving to Louisville, Kentucky. Trooper Hope recounted at the suppression hearing that the driver appeared nervous during this encounter and hesitated prior to responding to some questions or otherwise seemed unsure of himself. Trooper Hope found it worthy of note that a supposedly very newly acquired SUV (a type of vehicle that, based on his years of experience, the trooper considered to easily be configured so as to have false compartments for secreting contraband) would already have religious beads hanging from the rearview mirror¹. Trooper Hope had observed the driver of the SUV overcompensate for his driving speed² once the Trooper's flashing lights were turned on. These various circumstances, when combined made the trooper suspicious. In his words, "when I

¹ Trooper Hope did not elaborate — nor was he asked to do so — on this somewhat incongruous statement as to the role the rosary hanging from the rearview mirror played in his assessment of the situation. It was not otherwise immediately apparent to the Court why this was remarkable.

² According to Trooper Hope, a driver who was traveling only slightly above the speed limit like this defendant — going 76mph in a 70mph zone — normally slows down to just below the speed limit, but this driver slowed to 60mph, thus suddenly moving much more slowly than would be expected — as if he was especially hopeful to escape notice. The result was just the opposite.

start seeing all these things, the totality of all those items stick out to me and give me reasonable suspicion. That means a lot to me together.”

At that point Trooper Hope continued with basic traffic stop procedures, such as checking for outstanding warrants involving the driver, re-checking the vehicle registration documents and an insurance card for other vehicles, all of which in this case showed the same “Benitez-Ramos” owner, but with different addresses. Trooper Hope prepared a written warning to the driver for the speeding, but asked the driver if he was willing to step out of the car, talk with the officer and be patted down for a weapons check. The driver obliged and, in response to the further inquiry as to whether there were any guns or knives in the car, the driver said “no” and told Trooper Hope he could check the car if he wished. Trooper Hope reconfirmed this exchange before proceeding, and again the driver consented to a search of the car. Even then, before moving ahead Trooper Hope also asked if there were any illegal drugs in the car, specifically listing cocaine, heroin, methamphetamine and marijuana, or large amounts of money. The driver replied that he had \$800 in his wallet. The driver verbally acknowledged his responsibility for everything in the car. The trooper again verbally confirmed that he had the driver’s consent to search the car, following that up with securing the driver’s actual signature to a waiver-and-consent form. Gov’t Ex. 5. It was signed by the driver using the Benitez-Ramos name.

As the signing of the form was being completed, another state trooper, Trooper Fleisher, arrived. Trooper Hope then began a physical search of the SUV by crawling under the rear bumper to look at the undercarriage. Trooper Hope observed certain non-factory-issued conditions, suggesting to him that some changes had been made to the undercarriage of the SUV. He suspected that the changes were designed to mask the installation or other creation of a false compartment. This then prompted the officer to investigate further by looking under the seats inside the car and lifting the passenger-side rear area carpet. He observed a broken piece of

plastic which he lifted aside³, allowing him to see below the floor into a small space where he saw what appeared to be a wrapped package of an unknown substance. During this process the trooper did not break any part of the car, rip anything or use any tools (other than his flashlight). It took “just a few minutes.” The trooper’s account is supported by a video recording of the events and photographs of the interior of the SUV.

The driver was arrested and his Miranda rights were read to him. He agreed to answer questions, which he did, including giving his real name, to wit, Frankely Antonio Garcia-Vasquez. He admitted that “Benitez-Ramos” was his oft-used alias. Mr. Garcia-Vasquez gave permission for a subsequent search of his residence where drug paraphernalia and cash were found, along with documents in both the names of Garcia-Vasquez and Benitez-Ramos.

Mr. Garcia-Vasquez has been charged by a federal grand jury in a one-count indictment with possession with intent to distribute one kilogram or more of heroin, a violation of 21 U.S.C. §841(a)(1), (b)(1)(A).

Mr. Garcia-Vasquez moves for suppression of all the physical evidence and statements obtained during and after the traffic stop due to alleged Fourth Amendment violations. He claims that the state trooper unreasonably prolonged the traffic stop, that Mr. Garcia-Vasquez did not provide valid consent to search the vehicle, and that, even if he did consent, the trooper’s search went beyond the consent given.

DISCUSSION

Mr. Garcia-Vasquez has the burden to prove the elements necessary for a successful suppression motion. United States v. Benoit, 730 F.3d 280, 288 (3d Cir. 2013); United States v.

³ During his testimony Trooper Hope variously described the action as “popping” the plastic piece of molding up, moving it aside, snapping a piece of plastic off, or lifting it. That allowed him to see the changes made to the vehicle which, in turn, led to discovery of the false compartment.

Johnson, 63 F.3d 242, 245 (3d Cir. 1995). If he succeeds in establishing a basis for the Motion, then the Government must undertake to show that the search was reasonable.

Mr. Garcia-Vasquez argues that state troopers violated his Fourth Amendment rights during the turnpike stop and that the Court should suppress all the physical evidence and statements obtained during and after this stop. The Court declines to do so.

Trooper Hope had probable cause to stop Mr. Garcia-Vasquez for a speeding violation, and he did not unreasonably prolong the stop as he performed ordinary inquiries to address the violation and attend to related safety concerns. This followed the trooper's customary procedures. To the extent that the stop may have taken a few minutes longer than some might think necessary to resolve the violation as described, as appears on the video dash cam recording and then explained by the trooper himself, Trooper Hope had a rather "chatty" manner of relating to detained persons designed to either secure as much cooperation as appropriate or cause the detained driver to relax, or both. In any event, the trooper had the consent of Mr. Garcia-Vasquez for the investigation, recognizing that he could have been told by the driver (but was not) that he had no time for delay. Moreover, the trooper had reasonable suspicion to prolong the stop, in light of Mr. Garcia-Vasquez's apparent felony drug arrests and recent ties to largescale drug trafficking, (information the trooper had garnered in his quick review of the "Benetiz-Ramos" driver's license name), among other factors.

Moreover, Mr. Garcia-Vasquez provided valid consent to search his vehicle; he was not coerced in any way. Mr. Garcia-Vasquez signed a written consent form, acknowledging that he knew his right to refuse consent and that no one threatened him or promised him anything. The trooper's subsequent search of the vehicle was not beyond the scope of consent, which allowed a search of the "entire vehicle" for drugs and other contraband, including consent to search any containers, bags, or boxes inside the vehicle.

Officers may conduct an investigatory stop of a vehicle where there is probable cause or reasonable suspicion to believe that a traffic violation has been committed, even if the stop is a pretext for other law enforcement interests. Whren v. United States, 517 U.S. 806, 810, 814–15 (1996). Here, no one disputes that the trooper was permitted to stop the vehicle for investigation of a traffic violation, given that he had measured the vehicle as traveling six miles per hour over the maximum speed limit in violation of Pennsylvania law. See 75 Pa. C.S. § 3362(a) (maximum speed limits); United States v. Bonner, 363 F.3d 213, 216 (3d Cir. 2004) (“A police officer who observes a violation of state traffic laws may lawfully stop the car committing the violation.”) (citing Pennsylvania v. Mimms, 434 U.S. 106, 109 (1977)).

Once an officer lawfully stops a vehicle, he may detain the driver until he completes the investigation of the possible violation. Arizona v. Johnson, 555 U.S. 323, 333 (2009); see Rodriguez v. United States, 135 S. Ct. 1609, 1612, 1614–16 (2015). In Rodriguez, the Supreme Court held that “the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’ — to address the traffic violation that warranted the stop and attend to related safety concerns.” Id. at 1614 (citation omitted).

“Beyond determining whether to issue a traffic ticket, an officer’s mission includes ordinary inquiries incident to [the traffic] stop,” such as “checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” Id. at 1615 (quotation marks omitted). Actions that an officer takes in order to protect his own safety also “stem[] from the mission of the stop itself.” Id. at 1616. Examples of activities furthering that safety interest include “criminal record and outstanding warrant checks,” id., as well as other precautions, such as asking the driver to step out of his car, id. at 1615 (citing Mimms, 434 U.S. at 110–11).

Here, Trooper Hope did not expand the scope of the stop of Mr. Garcia-Vasquez beyond its

traffic-related purpose before preparing a warning citation and then obtaining consent to search the vehicle. The trooper initially asked Mr. Garcia-Vasquez about the vehicle and his travel plans. These were legitimate traffic stop inquiries. The trooper obtained a driver's license, update card, vehicle registration, and insurance card from Mr. Garcia-Vasquez, and then properly conducted a series of ordinary inquiries to investigate the traffic violation, which included checking the driver's license and determining if it was valid, further inspecting the vehicle's registration, and reviewing the information on the insurance card. The trooper also took safety-related precautions, such as checking the driver's criminal history and for any outstanding warrants. The trooper then prepared a written warning. All of these steps were related to the purpose of the traffic stop. See Rodriguez, 135 S. Ct. at 1614–16.

It appears to the Court that the length of time it took to conduct these ordinary inquiries was surely compounded by the fact that Mr. Garcia-Vasquez did not provide valid proof of insurance, as well as the fact that the driver's license, update card, and insurance card all had different addresses. See United States v. Shareef, 100 F.3d 1491, 1501 (10th Cir. 1996) (“When a defendant's own conduct contributes to a delay, he or she may not complain that the resulting delay is unreasonable.”). Indeed, Trooper Hope discovered that Mr. Garcia-Vasquez had provided a fake name (“Jose Luis Benitez Ramos”) and all of the car documents were later disclosed as fraudulent.

Nonetheless, Mr. Garcia-Vasquez argues that he “was detained 25 minutes with no justification or reasonable suspicion.” The Court evaluates the facts differently. The initial stop and investigation were justified in order for the trooper “to address the traffic violation that warranted the stop and attend to related safety concerns,” see Rodriguez, 135 S. Ct. at 1614 (citations omitted), and the amount of time Mr. Garcia-Vasquez was detained was not out of the ordinary or unreasonable based on the cases the Government has referred to in the circuit courts of

appeals. See, e.g., United States v. Ellis, 497 F.3d 606, 613 (6th Cir. 2007) (22 minutes); United States v. Barragan, 379 F.3d 524, 527 (8th Cir. 2004) (approximately 30 minutes); Shareef, 100 F.3d at 1501–02 (30 minutes); see also United States v. Sharpe, 470 U.S. 675, 686 (1985) (rejecting lower court’s “per se rule that a 20-minute detention is too long to be justified”); United States v. Branch, 537 F.3d 328, 336 (4th Cir. 2008) (“The maximum acceptable length of a routine traffic stop cannot be stated with mathematical precision.”).

To the extent that Mr. Garcia-Vasquez is claiming the traffic stop was prolonged minutes longer than necessary to resolve the violation, the trooper had the consent of Mr. Garcia-Vasquez to prolong the stop. See United States v. Green, 740 F.3d 275, 280 (4th Cir. 2014) (finding that an officer may prolong a traffic stop where the driver consents to additional investigation). After returning to Mr. Garcia-Vasquez’s vehicle, the trooper asked Mr. Garcia-Vasquez, “Are you OK talking with me out here?” Mr. Garcia-Vasquez agreed and stepped out of the vehicle to answer some additional questions. At no time was Mr. Garcia-Vasquez actually ordered out of the vehicle, even though such actions would have been reasonable as well. See Rodriguez, 135 S. Ct. at 1615 (“[T]he government’s ‘legitimate and weighty’ interest in officer safety outweighs the ‘de minimis’ additional intrusion of requiring a driver, already lawfully stopped, to exit the vehicle.”) (quoting Mimms, 434 U.S. at 110–11). The trooper then began asking safety-related questions about guns or knives in the vehicle when Mr. Garcia-Vasquez, unprompted, told the trooper he (the trooper) could check the vehicle. This additional questioning lasted about one minute before the trooper obtained verbal consent from Mr. Garcia-Vasquez to search his vehicle.

Moreover, the trooper had reasonable suspicion to prolong the stop, in light of Mr. Garcia-Vasquez’s apparent felony drug arrests as reported during his check for criminal history and recent ties to large-scale drug trafficking, among other factors. An officer may extend a traffic stop beyond the time necessary to resolve the traffic violation and detain the vehicle and its

occupants for further investigation where the officer develops a reasonable, articulable suspicion of criminal activity. United States v. Givan, 320 F.3d 452, 458 (3d Cir. 2003). “While ‘reasonable suspicion’ must be more than an inchoate ‘hunch,’ the Fourth Amendment only requires that police articulate some minimal, objective justification for an investigatory stop.” Id. (citing United States v. Sokolow, 490 U.S. 1, 13 (1989)). In assessing whether reasonable suspicion exists, courts must “consider the totality of the circumstances, including the police officer’s knowledge, experience, and common sense judgments about human behavior.” United States v. Robertson, 305 F.3d 164, 167 (3d Cir. 2002); United States v. Arvizu, 534 U.S. 266, 273 (2002). The Third Circuit Court of Appeals urges giving great deference to the officer’s knowledge and experience, as innocent factors considered in their entirety may appear suspicious to an experienced officer. United States v. Nelson, 284 F.3d 472, 482 (3d Cir. 2002); Terry v. Ohio, 392 U.S. 1, 22 (1968). Trooper Hope was just such an experienced officer whose bona fides includes teaching other state troopers about traffic stops and drug trafficking investigations relating to vehicles.

Here, Trooper Hope was justified in prolonging the stop because he developed reasonable suspicion that Mr. Garcia-Vasquez was involved in other criminal activity. The trooper, a veteran of the Pennsylvania State Police with extensive training and experience in drug interdiction investigations, identified in his report several factors that he witnessed prior to and during the traffic stop which led him to believe that Mr. Garcia-Vasquez may be involved in criminal activity. These factors, as recounted by the trooper, included, among others: (1) the manner in which the vehicle slowed after seeing the trooper’s vehicle, (2) the vehicle was a recently-purchased older model, (3) the driver had implausible travel plans and seemed nervous and unsure of himself when responding to questions about his travel plans, (4) the “recently-purchased” vehicle already had a personal item (rosary beads) hanging from the rearview mirror, (5) the vehicle’s address and driver

appeared to be tied to a recent major drug and cash seizure from another vehicle that had a hidden compartment, (6) the vehicle and driver were coming from a drug source area, (7) the driver was shaking and nervous, (8) the driver's license and vehicle documents had multiple different addresses, (9) the driver appeared to have prior felony drug arrests, and (10) the vehicle was traveling on a highway known for drug smuggling. Given the totality of the circumstances and what they meant to the investigating state trooper, the trooper was justified, at the very least, to extend the stop in order to address his suspicions regarding Mr. Garcia-Vasquez's activities.

Mr. Garcia-Vasquez argues (not without some preliminary justification for doing so) that his own nervousness, criminal history, and the personal religious item hanging on the rearview mirror are each capable of an innocent explanation and do not themselves create reasonable suspicion. One can accept that assertion but still have to acknowledge that this argument ignores several other factors — most significantly, the vehicle and driver's ties to a major drug trafficking seizure a month. The defense argument relies precisely on the type of piecemeal analysis that the Supreme Court has found to be impermissible in United States v. Arvizu, 534 U.S. 266 (2002), which Mr. Garcia-Vasquez cites for a collateral point. In fact, Arvizu rejected exactly the “divide-and-conquer” in which Mr. Garcia-Vasquez nevertheless engages. In Arvizu, a border patrol agent stated that he had reasonable suspicion that occupants of a van traveling on a desert road were engaged in narcotics trafficking, based on a set of seemingly innocuous circumstances which collectively triggered his trained observation, ranging from the type of vehicle being driven to the manner in which children in the van waved to the agent. The defendant argued that each of the observations had an innocent explanation, and the Ninth Circuit Court of Appeals agreed, suppressing the seizure. The Supreme Court reversed, stating:

The [Court of Appeals'] evaluation and rejection of seven of the listed factors in isolation from each other does not take into account the “totality of the circumstances,” as our cases have understood that phrase. The court appeared to believe that each observation by [the

agent] that was by itself readily susceptible to an innocent explanation was entitled to “no weight.” *Terry*, however, precludes this sort of divide-and-conquer analysis.

Id. at 274 (citations omitted).

Consistent with Arvizu, courts have often held that seemingly innocent behavior does not preclude a person’s actions from nonetheless giving rise to reasonable suspicion. In fact, our own court of appeals has observed that “[a] reasonable suspicion of criminal activity can be formed by observing exclusively legal activity.” United States v. Ubiles, 224 F.3d 213, 217 (3d Cir. 2000).

Here, some of the factors cited by Trooper Hope, if viewed in isolation, describe arguably innocent behavior. But when those same factors are collected and examined under the totality of the circumstances and through the lens of an experienced trooper, it is clear that Trooper Hope acted reasonably in suspecting Mr. Garcia-Vasquez was involved in criminal activity.

One might even observe that Trooper Hope acted with considerable reserve in making a brief traffic stop where the trooper then obtained verbal, followed by written consent to ask a few questions and search a vehicle. The trooper did not unreasonably prolong the traffic stop. He had both the consent of Mr. Garcia-Vasquez to conduct a search and reasonable suspicion to do so.

Mr. Garcia-Vasquez also argues that he did not provide valid consent to search the vehicle, and that, even if he did consent, the search went beyond the consent given. These arguments are without merit. Mr. Garcia-Vasquez provided both verbal and written consent to search his vehicle, and he was not coerced to do so in any way. The trooper’s subsequent search of the vehicle was not beyond the scope of Mr. Garcia-Vasquez’s consent, which allowed a search of the “entire vehicle” for drugs and other contraband, including consent to search any containers, bags, or boxes inside the vehicle.

“It is . . . well settled that one of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent.”

Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973); Unites States v. Price, 558 F.3d 270, 277–78 (3d Cir. 2009). The Supreme Court has “long approved consensual searches because it is no doubt reasonable for the police to conduct a search once they have been permitted to do so.” Florida v. Jimeno, 500 U.S. 248, 250–51 (1991).

To be sure, the consent must be voluntarily given. Schneckloth, 412 U.S. at 222. Voluntariness of consent is determined by examining “the totality of all the circumstances,” id. at 227, and in evaluating voluntariness, “the critical factors” include “the setting in which the consent was obtained, the parties’ verbal and non-verbal actions, and the age, intelligence, and educational background of the consenting individual.” Givan, 320 F.3d at 459; see United States v. Crandell, 554 F.3d 79, 88 (3d Cir. 2009).

Mr. Garcia-Vasquez claims that the consent he gave Trooper Hope was coerced and not valid. This argument fails. Mr. Garcia-Vasquez himself volunteered that the trooper could search the vehicle (“You can check.”), and the trooper proceeded to obtain both verbal and written consent before beginning the search. The setting was not unduly coercive, given that Mr. Garcia-Vasquez had agreed to get out of the vehicle to answer additional questions and both the trooper and Mr. Garcia-Vasquez moved away from turnpike traffic where it was safer and they could hear each other better. The trooper did not pull his gun or place Mr. Garcia-Vasquez in handcuffs; he communicated with Mr. Garcia-Vasquez in a respectful, even chatty, tone and did not act in a threatening matter.

Trooper Hope even advised Mr. Garcia-Vasquez that he could refuse consent, but Mr. Garcia-Vasquez signed a written consent form, acknowledging his right to refuse consent and that no one threatened him or promised him anything. Indeed, although the trooper was not required to inform Mr. Garcia-Vasquez of his right to refuse consent, the fact that he did underscores the voluntary nature of Mr. Garcia-Vasquez’s consent. See United States v. Schettler, 32 F. App’x

14, 15–16 (3d Cir. 2002). Mr. Garcia-Vasquez, who is a 34-year-old adult, never expressed any discomfort or reservations about providing consent, nor did he attempt to stop the search. See United States v. Morales, 861 F.2d 396, 399–400 (3d Cir. 1988) (finding that a vehicle owner’s silence during a search of his vehicle was relevant in assessing consent).

Mr. Garcia-Vasquez next claims that his consent to search the vehicle did not extend to a search of the hidden compartment where drugs were found. An objective standard is used to determine what a reasonable person would have understood from the exchange between the officer and the defendant in order to gauge the scope of consent. Jimeno, 500 U.S. at 251. Where, as here, a defendant consents to a full search of his vehicle, it is reasonable to conclude that he consents to a search of “enclosed and hidden” areas within the vehicle. See Morales, 861 F.2d at 401 (“It would be incongruous to allow an officer to open a glove compartment or trunk during a consensual full vehicle search but not to allow him to pull a seat backrest forward to search for contraband.”). No doubt, of course, one would not expect someone in Mr. Garcia-Vasquez’s position to expressly limit his consent to “everything except the hidden compartment.” The dilemma is obvious, but does not salvage Mr. Garcia-Vasquez’s argument. Here, Mr. Garcia-Vasquez provided written consent giving the trooper broad permission to search his “entire vehicle” for drugs and contraband, including specific consent to search any containers, bags, or boxes inside the vehicle. Mr. Garcia-Vasquez even knew from the trooper’s inquiries that he would be looking for weapons and drugs. At no point before or during the search of his vehicle did Mr. Garcia-Vasquez withdraw his consent for the search or limit the scope of his consent in any way. In fact, apparently Mr. Garcia-Vasquez said nothing as he watched the trooper search his vehicle, fold down the rear bench seat, look inside the compartment, and find the bricks of heroin. It ill-behooves Mr. Garcia-Vasquez to argue that the search itself was unreasonably long or extensive inasmuch as the trooper found the heroin in under four minutes. Given these

circumstances, the Court concludes that Mr. Garcia-Vasquez's consent extended to a search of the hidden compartment where the heroin was found. See Jimeno, 500 U.S. at 251; Morales, 861 F.2d at 400–01.

Nonetheless, Mr. Garcia-Vasquez relies on Jimeno and United States v. Saucedo, 688 F.3d 863 (7th Cir. 2012), to argue that his consent did not extend to the hidden compartment. However, the Government rightly argues that as those cases actually support the actions of the trooper in this case. In Jimeno, the Supreme Court rejected an argument that an officer who receives general consent to search a vehicle for drugs must obtain additional consent for a closed container found inside the vehicle. 500 U.S. at 252 (“[W]e see no basis for adding this sort of superstructure to the Fourth Amendment’s basic test of objective reasonableness.”). The Court stated that it was objectively reasonable to conclude that consent to search a vehicle for drugs “included consent to search containers” because “narcotics are generally carried in some form of a container” and “rarely are strewn across the trunk or floor of a car.” Id. at 251 (quoting United States v. Ross, 456 U.S. 798, 820 (1982)). Thus, Trooper Hope needed no additional consent from Mr. Garcia-Vasquez when, having observed alterations and after-factory installed changes to the rear of the vehicle indicating the possibility of hidden compartment, he folded down the rear bench, lifted the rug, opened the compartment, and looked for drugs inside of it.

Indeed, in Saucedo, similar to here, the Seventh Circuit found it reasonable for a trooper, who had obtained consent to search a vehicle for drugs, to use a screwdriver to disassemble and pull back molding to expose a hidden compartment. 688 F.3d at 866 (“A reasonable person would have understood that by consenting to a search of his tractor and trailer for drugs, Saucedo agreed to permit a search of any compartments or containers therein that might contain drugs, including the hidden compartment where the cocaine was ultimately found.”). Trooper Hope used no tools at all to conduct his search (other than the flashlight to facilitate his observations).

The written consent form signed by Mr. Garcia-Vasquez in this case specifically allowed a search of any containers, and Mr. Garcia-Vasquez did not limit the scope of the search. For all these reasons, the trooper's search of the SUV in question was reasonable and did not exceed the scope of Mr. Garcia-Vasquez's consent.

Finally, Mr. Garcia-Vasquez claims that the evidence and subsequent statements obtained by the trooper must be suppressed as "fruit of poisonous tree." There being "no poisonous tree" in this case, as discussed above, there is no unpalatable fruit be suppressed.

CONCLUSION

For all of the foregoing reasons, the suppression motion is denied.

BY THE COURT:

/s/ Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
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v.	:	
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FRANKLEY ANTONIO GARCIA-VASQUEZ	:	NO. 17-315

ORDER

AND NOW, this 5th day of December, 2017, it is hereby **ORDERED** that, for the reasons set forth in the accompanying Memorandum, defendant Frankley Antonio Garcia-Vasquez's Motion to Suppress Physical Evidence and Statements (Doc. 14) is **DENIED**.

BY THE COURT:

/s/ Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge